

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Carolina Post Office
Carolina, West Virginia

Docket No. A2011-95

ORDER AFFIRMING DETERMINATION

(Issued January 19, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* Lastly, the

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011 at 1 (Notice).

Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On September 28, 2011, Jack Fuller (Petitioner Fuller) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Carolina, West Virginia post office (Carolina post office).² An additional petition for review was received from William Taylor (Petitioner Taylor).³ The Final Determination to close the Carolina post office is affirmed.

II. PROCEDURAL HISTORY

On September 30, 2011, the Commission established Docket No. A2011-95 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

² Petition for Review Received from Jack Fuller Regarding the Carolina, West Virginia Post Office 26563, September 28, 2011 (Fuller Petition).

³ Petition for Review Received from William Taylor Regarding the Carolina, West Virginia Post Office 26563, October 12, 2011 (Taylor Petition).

⁴ Order No. 888, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 30, 2011.

On October 13, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

Petitioner Fuller filed a participant statement supporting his Petition.⁷ The Commission received four additional participant statements that attached the same letter opposing the closure.⁸ On December 7, 2011, the Public Representative filed comments in lieu of a reply brief.⁹

III. BACKGROUND

The Carolina post office provides retail postal services and service to 185 post office box customers. Final Determination at 2. No delivery customers are served through this post office. The Carolina post office, an EAS-11 level facility, has retail access hours of 7:30 a.m. to 12:00 p.m., and 12:30 p.m. to 4:00 p.m. Monday through Friday, and 8:00 a.m. to 9:45 a.m. on Saturday. *Id.* Lobby access hours are the same

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, October 13, 2011 (Administrative Record). The Administrative Record includes, as Item No. 49, the Final Determination to Close the Carolina, West Virginia Post Office and Establish Service by Rural Route Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, November 22, 2011 (Postal Service Comments). On December 7, 2011, the Postal Service filed Supplemental Comments Regarding Appeal (Postal Service Supplemental Comments) to specifically respond to Petitioner Fuller's participant statement, which, through inadvertent error, was delayed in posting to the Commission website. See Notice of Delayed Posting of Participant Statement, November 29, 2011.

⁷ Supplemental Comments Received from Jack Fuller, Petitioner (Posted on PRC Website on 11/29/2011), November 1, 2011 (Fuller Participant Statement). It contains an attached petition appealing the Final Determination, with more than 270 signatures. *Id.* As noted above, the Commission received the Fuller Participant Statement on October 31, 2011, but it was not posted on the Commission's website until November 29, 2011. Petitioner Fuller resubmitted his participant statement on December 6, 2011. Participant Statement Received from Jack A. Fuller, December 6, 2011 (Participant Statement).

⁸ Participant Statement Received from Erma M. Colisino, November 1, 2011; Participant Statement Received from Beverly Colisino Regarding the Carolina WV Post Office 26563, November 1, 2011; Participant Statement Received from Harry Colisino, Sr. Regarding the Carolina WV Post Office 26563, November 7, 2011; Participant Statement Received from Charles E. Marstiller Regarding the Carolina WV Post Office 26563, November 7, 2011 (together, Colisino Participant Statement).

⁹ Comments of the Public Representative, December 7, 2011 (Public Representative Comments).

as retail access hours Monday through Friday, and 8:00 a.m. to 10:00 a.m. on Saturday. *Id.*

The postmaster position became vacant on April 1, 2010 when the Carolina postmaster retired. *Id.* An officer-in-charge (OIC) was installed to operate the post office. *Id.* Retail transactions average 17 transactions daily (17 minutes of retail workload). Post office receipts for the last 3 years were \$21,638 in FY 2008; \$19,210 in FY 2009; and \$17,319 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$43,897 annually. *Id.* at 6.

After the closure, retail services will be provided by the Worthington post office located approximately 2 miles away.¹⁰ Delivery service will be provided by rural carrier through the Worthington post office to cluster box units (CBUs). The Worthington post office is an EAS-13 level office, with retail hours of 7:30 a.m. to 11:30 a.m., and 12:00 p.m. to 4:00 p.m. Monday through Friday, and 8:00 a.m. to 10:30 a.m. on Saturday. *Id.* Five hundred eleven (511) post office boxes are available. *Id.*

Retail services will also be available at the Idamay post office, located approximately 2 miles away.¹¹ The Idamay post office is an EAS-11 level office, with retail hours of 7:30 a.m. to 12:00 p.m., and 12:30 p.m. to 4:00 p.m. Monday through Friday, and 8:00 a.m. to 9:45 a.m. on Saturday. *Id.* Two hundred sixty-four post office boxes are available. *Id.* The Postal Service will continue to use the Carolina name and ZIP Code. *Id.* at 6, Concern No. 2.

IV. PARTICIPANT PLEADINGS

Participants. The participants opposes the closure of the Carolina post office. Petitioner Fuller contends that the Carolina post office has been selected for closure

¹⁰ *Id.* at 2. MapQuest estimates the driving distance between the Carolina and Worthington post offices to be approximately 3.12 miles (6 minutes driving time).

¹¹ *Id.* at 2. MapQuest estimates the driving distance between the Carolina and Idamay post offices to be approximately 3.5 miles (7 minutes driving time).

solely for financial reasons, which he alleges is a violation of 39 U.S.C. § 101(b). Fuller Petition. He is concerned that Carolina residents will no longer receive regular and effective postal services after the post office is closed. Fuller Participant Statement at 1-2. He asserts that Carolina is a rural mountain town and travel for its many senior residents to CBUs in the winter would be treacherous. *Id.* Petitioner Fuller states that many residents are concerned about the safety of their mail in CBUs. *Id.* at 2-3.

Petitioner Taylor and other participants raised several issues related to the effect on the community and effect on postal services. Taylor Petition; Colisino Participant Statement.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Carolina post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Carolina community; and (3) closure solely for operating at a deficit. *Id.* at 1-2. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Carolina post office should be affirmed. *Id.*

The Postal Service explains that its decision to close the Carolina post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Carolina community when the Final Determination is implemented. *Id.* at 4-5.

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by participants regarding the effect on postal services, effect on the Carolina community, economic savings, and effect on postal employees. *Id.* at 5-11.

Public Representative. The Public Representative states that the Postal Service has provided adequate notice and complied with the requirements of 39 U.S.C. §404(d)(2). Public Representative Comments at 2. He asserts that the Final Determination is supported by substantial evidence and is not arbitrary and capricious. *Id.* He questions the Postal Service's calculation of economic savings since they do not reflect actual compensation currently paid to employees, but concludes that the decision to close the post office should be affirmed. *Id.* at 4.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given

60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On March 18, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Carolina post office. Final Determination at 2. A total of 210 questionnaires were distributed and made available at the retail counter. *Id.* A total of 61 questionnaires were returned. On April 21, 2011, the Postal Service held a community meeting at the Carolina post office to address customer concerns. Seventy customers attended. *Id.*

The Postal Service posted the proposal to close the Carolina post office with an invitation for comments at the Carolina, Idamay, and Worthington post offices from June 2, 2011 through August 3, 2011. *Id.* The Final Determination was posted at the same 3 post offices from September 2, 2011 through October 4, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A). The Postal Service must also comply with the provisions of 39 U.S.C. § 101(b), which prohibits closing any small post office solely for operating at a deficit.

Effect on the community. Carolina, West Virginia is an unincorporated community located in Marion County, West Virginia. Administrative Record, Item

No. 16. The community is administered politically by the Marion County Commission. *Id.* Police protection is provided by the Marion County Sheriff's Office. Fire protection is provided by the Worthington Volunteer Fire Department. The community is comprised of retirees, low-income families and those who work in local businesses or commute to work in nearby communities. Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Carolina community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Carolina post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 6.

Petitioner Taylor expresses concerns that the closure will have a negative impact on the community. Taylor Petition. The Postal Service asserts that a community's identity derives from the interest and vitality of its residents and their use of its name. *Id.*, Concern No. 2. It contends that it is helping to preserve community identity by continuing to use the Carolina post office name and ZIP code. *Id.*

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Carolina postmaster retired on April 1, 2010. Postal Service Comments at 10. It asserts that a non-career employee was installed as the temporary OIC, and another non-career employee serves as the Postmaster Relief. *Id.* It explains that after the Final Determination is implemented, the temporary OIC will return to a position at a nearby post office, and the Postmaster Relief may be separated. It confirms that no other Postal Service employee will be adversely affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC and Postmaster Relief and has satisfied its obligation to consider the effect of the closing on employees at the Carolina post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Carolina customers. Postal Service Comments at 5-6. It asserts that customers of the closed Carolina post office may obtain retail services at the Worthington post office located 2 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the Worthington post office to CBUs. *Id.* The 185 post office box customers may obtain Post Office Box Service at the Worthington post office, which has 511 boxes available. *Id.*

For customers choosing not to travel to the Worthington post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 5-7. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Participants express concerns that Carolina residents will no longer receive regular and effective postal services after the post office is closed. They explain that Carolina is located in an isolated area on a hill, which makes traveling difficult during the winter months and bad weather, especially for senior citizens. Fuller Participant Statement at 1-2; Colisino Participant Statement.

The Postal Service responds that rural route delivery to CBUs installed on the carrier's line of travel provides similar access to retail service while obviating the need to travel to the post office, which can be helpful to senior citizens and persons with disabilities. Postal Service Comments at 7. It asserts that the Postal Service will hire rural carriers from the local community who will be familiar with the challenges of traveling on rural roads in all weather conditions. *Id.* The Public Representative contends that rural route delivery to CBUs will provide effective and regular service as

long as the CBUs are placed within the community, on the same streets residents use to walk to the current post office. Public Representative Comments at 2.

Petitioner Fuller states that many residents are concerned about the safety of their mail in CBUs, particularly since many of them order prescription medications by mail. Fuller Participant Statement at 2-3. The Postal Service responds that rural route delivery customers routinely receive medications through the mail and reminds customers that perishable items that are not properly packaged are not mailable. Postal Service Supplemental Comments at 3. The Postal Service states that it consulted the Postal Inspection Service, which reported only one incident of vandalism or theft in Carolina. *Id.* at 2-3.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$43,897. Final Determination at 6. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$6,000) minus the cost of replacement service (\$6,382). *Id.* It also includes a one-time expense of \$4,000 for installing the CBUs. *Id.*; Administrative Record, Item No. 15.

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Carolina post office postmaster retired on April 1, 2010. Final Determination at 2. The post office has since been staffed by a non-career OIC and a non-career Postmaster Relief, who, upon discontinuance of the post office, will either return to a position at a nearby post office or may be separated from the Postal Service. Postal Service Comments at 10. The postmaster position and the corresponding salary will be eliminated.¹² Furthermore, notwithstanding that the Carolina post office has been staffed by an OIC for approximately a year and a half, even assuming the use of the

¹² See, e.g., Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10; Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13.

presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

Section 101(b). Section 101(b) prohibits closing any small post office solely for operating at a deficit. Petitioner Fuller and others participants that the Postal Service is closing the Carolina post office solely for economic reasons. Fuller Petition; Colisino Participant Statement.

To be sure, economics plays a role in the Postal Service's decision. However, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the Carolina post office (revenues declining and averaging only 17 retail transactions per day), the Postal Service took into account other factors such as the postmaster vacancy, the minimal impact on the community, and expected financial savings. In addition, it considered the alternate delivery and retail options available to customers. *Id.* Final Determination at 2.

The Postal Service did not violate the prohibition in section 101(b) on closing the Carolina post office solely for operating at a deficit.

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Carolina post office is affirmed.

It is ordered:

The Postal Service's determination to close the Carolina, West Virginia post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Carolina post office has been operated by an officer-in-charge (OIC), assisted by a noncareer postmaster relief (PMR), since the former postmaster retired on April 10, 2010. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC and PMR will be eliminated; yet on the other hand, it argues that the savings should be calculated using a postmaster position. There are inherent and blatant contradictions in the record that must be corrected on remand.

Therefore the Postal Service has not sufficiently considered the effect of such closing on employees as required by 39 U.S.C. § 404(d)(2)(A)(ii).

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium.

The citizens of Carolina, West Virginia and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that since April 2010, a non-career employee from a neighboring post office was installed as the temporary officer-in-charge (OIC), and another non-career employee serves as the Postmaster Relief (PMR), were installed to operate this facility, not an EAS-11 postmaster. The non-career OIC and PMR's salary and benefits should be reflected in the Postal Service's cost savings analysis.

As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Postal Service's decision to discontinue operations at the Carolina post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley